

9 APPLICABLE ENVIRONMENTAL LAWS, REGULATIONS, PERMITS, AND DOE ORDERS

Permits and approvals are required before the proposed transmission line can be constructed. Permits regulate many aspects of facility construction and operations, including the quality of construction, fugitive dust control requirements, and discharges of effluents to the environment. BHE would obtain these permits, as required, from the appropriate Federal, State, and local agencies. Table 9-1 contains a summary of the primary approvals that would be required to implement the proposed action along any one of the alternative routes.

The major Federal laws, regulations, E.O.s, and other compliance actions that potentially apply to the proposed project are identified in Table 9-2. A number of Federal environmental statutes address environmental protection, compliance, or consultation. In addition, certain environmental requirements have been delegated to State authorities for enforcement and implementation.

TABLE 9-1 List of Potentially Required Permits/Approvals

Agency ^a	Permits/Approvals
DOE	Presidential Permit
MDEP	Natural Resources Protection Act Permit, Site Location of Development Permit, 401 Water Quality Certification, and Maine Construction General Permit ^b
MDOT	Location Permit
MHPC	NHPA concurrence in a Programmatic Agreement (and Advisory Council, if necessary, with clearance stipulations) ^c
MPUC	Certificate of Public Convenience and Necessity
NOAA Fisheries	May provide essential fish habitat conservation recommendations
USACE	Clean Water Act Permits, Section 404 ^b
USFWS	ESA Section 7 concurrence based on a review of the biological assessment
Local Towns ^d	Building and Shoreland Zone Permits

^a Abbreviations: DOE = U.S. Department of Energy, ESA = Endangered Species Act, ESH = essential fish habitat, MDEP = Maine Department of Environmental Protection, MDOT = Maine Department of Transportation, MHPC = Maine Historic Preservation Commission, MPUC = Main Public Utilities Commission, NHPA = National Historic Preservation Act, NOAA Fisheries = National Oceanic and Atmospheric Administration, National Marine Fisheries Service, USACE = U.S. Army Corps of Engineers, USFWS = U.S. Fish and Wildlife Service.

^b The applicant submitted its permit application in May 2005 (BHE 2005).

^c SHPO clearance obtained.

^d Local towns include the organized towns and cities (see Tables 2.1-1 and 2.1-2 for those towns and cities traversed by the alternative routes).

TABLE 9-2 Federal Environmental Statutes, Regulations, and Orders^a

Resource Category	Statute, Regulation, Order	Citation	Administering Agency	Permits, Approvals, Consultations, and Notifications
<i>Air Quality</i>	CAA	42 USC § 7401 et seq.	EPA	Requires sources to meet standards and obtain permits to satisfy NAAQS, SIPs, NSPS, NESHAPs, and NSR. Applicability: No major source permit required under NESHAPs or NSR. No NSPS requirements or SIP requirements.
	CAA, NAAQS, SIP	42 USC § 7409 et seq.	EPA	Requires compliance with primary and secondary ambient air quality standards governing sulfur dioxide, nitrogen oxide, carbon monoxide, ozone, lead, and particulate matter and with emission limits/reduction measures as designated in each SIP. Applicability: No SIP requirements.
<i>Noise</i>	Noise Control Act	42 USC § 7401 et seq.	EPA	Requires facilities to maintain noise levels that do not jeopardize the health and safety of the public. Applicability: Applicable.
<i>Hydrological Resources</i>	CWA	33 USC § 1251 et seq.	MDEP	Requires an EPA- or State-issued permit (NPDES) and compliance with provisions of permits for discharge of effluents to surface waters and additional wetland protection requirements. Applicability: No NPDES permit required. Other requirements apply.
	CWA	Section 404	USACE	Requires permit for discharge of dredge or fill material into waters of the United States and water quality certification. Applicability: Applicable.

TABLE 9-2 (Cont.)

Resource Category	Statute, Regulation, Order	Citation	Administering Agency	Permits, Approvals, Consultations, and Notifications
<i>Hydrological Resources (Cont.)</i>	E.O. 11988: Floodplain Management	42 FR 26951 May 24, 1977	Federal agencies	When there is no practical alternative to development in floodplains and wetlands, Federal agencies are required to prepare a floodplains and wetlands assessment, design mitigation measures, and provide public review. For floodplain involvement, Federal agencies must issue a Floodplain Statement of Findings. Applicability: Applicable.
	E.O. 11990: Protection of Wetlands	42 FR 26961 May 24, 1977 10 CFR Part 1022 (implementing regulations)		
<i>Soil Resources</i>	Farmland Protection Policy Act	7 USC § 4201 et seq.	NRCS	Minimizes any adverse effects to prime and unique farmlands. Applicability: Applicable.
<i>Ecological Resources</i>	Bald and Golden Eagle Protection Act	16 USC § 668 et seq.	USFWS	Consultations should be conducted to determine if any protected birds are found to inhabit the area. If so, BHE must obtain a permit prior to moving any nests because of construction or operation of project facilities. Applicability: Applicable.
	E.O. 13112: Invasive Species	64 FR 6183 February 8, 1999	Federal agencies	Requires agencies, to the extent practicable and permitted by law, to prevent the introduction of invasive species; to provide for their control; and to minimize the economic, ecological, and human health impacts that invasive species cause. Applicability: Applicable.
	Magnuson-Stevens Fishery Conservation and Management Act	50 CFR 600.05–600.930	NOAA Fisheries	Requires Federal agencies to prepare a written EFH assessment describing the effects of that action on EFH. Applicability: Applicable.

TABLE 9-2 (Cont.)

Resource Category	Statute, Regulation, Order	Citation	Administering Agency	Permits, Approvals, Consultations, and Notifications
<i>Ecological Resources (Cont.)</i>	MBTA	16 USC § 703 et seq.	USFWS	Requires consultation to determine if there are any impacts on migrating bird populations because of construction or operation of project facilities. If so, BHE would develop mitigation measures to avoid adverse effects. Applicability: Applicable.
	ESA/Section 7	16 USC § 1531 et seq.	USFWS	Requires consultation to identify endangered or threatened species and their habitats, assess impacts thereon, obtain necessary biological opinions, and, if necessary, develop mitigation measures to reduce or eliminate adverse effects of construction or operations. Applicability: Applicable.
<i>Cultural Resources</i>	NHPA/Sections 106 and 110	16 USC § 470 et seq.	DOE	Requires consultation with the SHPO, land management agencies, and, in certain cases, the Advisory Council on Historic Preservation prior to construction to ensure that no significant historical properties (i.e., National Register-eligible properties, as defined in the NHPA) would be affected. Applicability: Applicable.
	Archaeological and Historical Preservation Act	16 USC § 469 et seq.	DOI	Requires DOE to obtain permits for any disturbances of archaeological resources. Applicability: Applicable.
	Antiquities Act	16 USC §§ 431–433	DOI	Requires DOE to comply with all applicable sections of the act. Applicability: Applicable.
	American Indian Religious Freedom Act	42 USC § 1996	DOI	Requires DOE to consult with local Native American Indian tribes prior to construction to ensure that their religious customs, traditions, and freedoms are preserved. Applicability: Applicable.

TABLE 9-2 (Cont.)

Resource Category	Statute, Regulation, Order	Citation	Administering Agency	Permits, Approvals, Consultations, and Notifications
<i>Cultural Resources (Cont.)</i>	E.O. 13007: Protection and Accommodation of Access to “Indian Sacred Sites”	61 FR 26771 May 29, 1996	DOI	Requires DOE to consider the potential impact of its actions on Native American sacred sites, access to sacred sites, or use of sacred sites. Applicability: Applicable.
<i>Worker Health and Safety</i>	Occupational Safety and Health Act	5 USC § 5108	OSHA	Requires agencies to comply with all applicable work safety and health legislation (including guidelines of 29 CFR Part 1960) and prepare, or have available, Material Safety Data Sheets. Applicability: Applicable.
<i>Visual Resources</i>	Environmental Quality Improvement Act	42 USC §§ 4371–4375	CEQ	Requires each Federal agency conducting or supporting public works activities affecting the environment to implement policies established under existing law that provide for enhancement of environmental quality. Applicability: Applicable.
<i>Other</i>	NEPA	42 USC § 4321 et seq. 40 CFR 1500–1508	CEQ	40 CFR Parts 1500–1508 direct all Federal agencies in the implementation of NEPA. DOE NEPA regulations are in 10 CFR Part 1021. Applicability: Applicable.
	TSCA	45 USC § 2011	EPA	Requires BHE to comply with inventory reporting requirements and chemical control provisions of TSCA to protect the public from the risks of exposure to chemicals. Applicability: Applicable.
	Hazardous Materials Transportation Act	49 USC § 1801 et seq.	DOT	Requires BHE to comply with the requirements governing hazardous materials and waste transportation. Applicability: Applicable.

TABLE 9-2 (Cont.)

Resource Category	Statute, Regulation, Order	Citation	Administering Agency	Permits, Approvals, Consultations, and Notifications
Other (Cont.)	Emergency Planning and Community Right-to-Know Act	42 USC § 11001 et seq.	EPA	Requires the development of emergency response plans and reporting requirements for chemical spills and other emergency releases, and imposes right-to-know reporting requirements covering storage and use of chemicals that are reported in toxic chemical release forms. Applicability: Applicable.
	Pollution Prevention Act	42 USC §§ 11001–11050	EPA	Establishes a national policy that pollution should be reduced at the source and requires a toxic chemical source reduction and recycling report for an owner or operator of the facility required to file an annual toxic chemical release form under Section 313 of SARA. Applicability: Potentially applicable.
	Radio Frequency Device, Kits	47 CFR 15.25	FCC	Provisions of these regulations prohibit operation of any devices producing force fields, which interfere with radio communications, even if (as with transmission lines) such devices are not intentionally designed to produce radio-frequency energy. The FCC requires each line operator to mitigate all complaints about interference on a case-specific basis. The FCC staff usually recommend specific conditions of certification to ensure compliance with FCC requirements. Applicability: Applicable.
	E.O. 12088: Federal Compliance with Pollution Control Standards	43 FR 47707 October 17, 1978	OMB	Requires Federal agencies to consult with the EPA and State agencies regarding the best techniques and methods for the prevention, control, and abatement of environmental pollution. Applicability: Potentially applicable.

TABLE 9-2 (Cont.)

Resource Category	Statute, Regulation, Order	Citation	Administering Agency	Permits, Approvals, Consultations, and Notifications
<i>Other (Cont.)</i>	E.O. 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations	50 FR 7629 February 16, 1994	EPA	Requires Federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. Applicability: Applicable.

^a Abbreviations: BHE = Bangor Hydro-Electric Company, CAA = Clean Air Act, CEQ = Council on Environmental Quality, CFR = *Code of Federal Regulations*, CWA = Clean Water Act, DOE = U.S. Department of Energy, DOI = U.S. Department of Interior, DOT = U.S. Department of Transportation, EFH = essential fish habitat, E.O. = Executive Order, EPA = U.S. Environmental Protection Agency, ESA = Endangered Species Act, FCC = Federal Communications Commission, FR = *Federal Register*, MBTA = Migratory Bird Treaty Act, MDEP = Maine Department of Environmental Protection, NAAQS = National Ambient Air Quality Standards, NEPA = National Environmental Policy Act, NESHAPs = National Emissions Standards for Hazardous Air Pollutants, NHPA = National Historic Preservation Act, NOAA Fisheries = National Oceanic and Atmospheric Administration, National Marine Fisheries Service, NPDES = National Pollutant Discharge Elimination System, NRCS = Natural Resources Conservation Service, NSPS = New Source Performance Standards, NSR = New Source Review, OMB = Office of Management and Budget, OSHA = Occupational Safety and Health Administration, SARA = Superfund Amendments and Reauthorization Act, SHPO = State Historic Preservation Officer, SIP = State Implementation Plan, TSCA = Toxic Substances Control Act, USACE = U.S. Army Corps of Engineers, USC = *United States Code*, USFWS = U.S. Fish and Wildlife Service.